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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,989	06/27/2003	Michael D. Kotzin	CS22156RL/10-160	6421
23400	7590	04/25/2005	EXAMINER	
POSZ LAW GROUP, PLC 12040 SOUTH LAKES DRIVE SUITE 101 RESTON, VA 20191			KNEPPER, DAVID D	
			ART UNIT	PAPER NUMBER
			2654	

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/608,989

Applicant(s)

KOTZIN, MICHAEL D.

Examiner

David D. Knepper

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28,30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28,30 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. Applicant's correspondence filed on 27 June 2003 has been received and considered. Claims 1-28, 30 and 31 are pending. It is noted that no claim 29 is present in the application. Page 30 ends with claim 28 and page 31 begins with claim 30.

**Title**

2. The title is objected to because the terms "method and apparatus" are unnecessarily verbose. Also, the term "communications unit" should be changed as appropriate to clarify the term in accordance with the rejection of claims noted below.

**Abstract**

3. The Abstract of the Disclosure is objected to because it is a run-on sentence. The term "voiced instructions" may also be misleading if interpreted literally because it is common for communications equipment capable of transmitting speech to code segments of voiced and unvoiced speech differently. The term --spoken instructions-- would be better if it finds support in the specification. Correction is required. See M.P.E.P. § 608.01(b).

**Priority Claims**

4. The applicant(s) should check their filing receipts and/or the Patent Application Information Retrieval (PAIR) system for the acknowledgment of their **domestic** priority or benefit claims (if any) under 35 USC 119(e), 120 or 121 (37 CFR 1.78).

The section that the applicant calls "RELATED APPLICATIONS" should refer to applications by serial number and filing date and should clarify the relationships such as continuations, continuation-in-part, etc. that may exist if they are not simply co-pending as stated.

**Specification**

5. The disclosure is objected to because of the following informalities:

The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper (page 1). Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

Appropriate correction is required.

**Claims**

6. Claims 1-11 and 23-28, 30 and 31 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-11 and 23-28, 30 and 31:

The claimed “communications unit” is unclear because it appears in a method claim. Therefore, it is unclear whether the applicant is attempting to include some form of hybrid or combination claim which may be prohibited under 35 USC 101 which states the statutory types of inventions in the alternative. As an example, it may be unclear whether a party selling someone a communications unit would be liable for contributory

infringement if the buyer uses the communications unit in combination with or for performing the method steps. Thus, the claims fail to clearly define the subject matter of the invention. To be properly interpreted as a means plus function format (35 USC 112, 6<sup>th</sup> paragraph), any apparatus mentioned must be the apparatus (“means”) that performs the method.

To further prosecution, it will be assumed that the “communications unit” is admitted prior art and that the applicant’s invention is neither communications hardware nor the use of the communications unit but is a method for converting input speech into output control signals that act as commands related to communication functions. A definite method claim is considered to be one that clearly defines the input, the output and the necessary steps for achieving the transition or conversion process from input to output.

The applicant is advised to review 35 USC 112, sixth paragraph for consideration of proper claim wording for describing means (apparatus) using functional (method) language. The applicant may otherwise consider filing another application if the invention is better described as particular hardware.

It is noted that no claim 29 is present in the application. Page 30 ends with claim 28 and page 31 begins with claim 30.

Claims 12-22:

These claims are confusing because they appear to assume that the claimed “server”, “receiver”, “controller” and “transmitter” are different than a “communications unit”. The latter term is sufficiently broad that it would include the others plus a wide

variety of input/output devices that are used for communication purposes. It is unclear, for example, whether the input communications device (claimed “receiver”) might also be the “communications unit”. The specification fails to clarify this problem because it merely lists a large number of notoriously well known communications devices (i.e. – page 5) and the figure 1, for example, shows that at least some of these devices must be read on the claimed “receiver” and “transmitter” while the “server” would be an intermediate device on the network contrary to the claim which indicates that the “server” has the entire input, conversion and output (receiver, controller and transmitter). It seems that the applicant should have drafted these claims so that the “server” would be read on the claimed “controller” to be consistent with the disclosure.

To further prosecution, the “communications unit” will be broadly interpreted to include a device located anywhere in a communications network for which input may be converted into signals which can then be interpreted in a manner which allows some relevant communication with the user.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 6, 7, 12-14, 17, 18, 23, 24, 26 are rejected under 35 U.S.C. § 103 as being unpatentable over Miner (5,652,789) in view of Ladd (6,269,336).

As per claims 1, 12, 23, “assisting with control of a communications unit from a remote agent” is taught or suggested by Miner’s teaching that the functionality of agent software may be enabled using remote procedure calls allowing processes to be run on separate computers (see col. 11-12):

“receiving an instruction message that corresponds to voice instructions” (his incoming calls from telephones 92, figure 5, col. 11;

“converting the voiced instructions to control commands” (his speech recognizer card 100, fig. 5, col. 11);

“providing a control message corresponding to the control commands” (suggested by his speech recognizer card 100, fig. 5, col. 11 which in combination with the agent noted above acts so that a dialog with the user will provide a desired result via spoken commands such that the agent executes the task, col. 13, lines 49-60); and

“sending the control message to the communications unit” (his teaching in column 12, lines 34-40 that ...Not only does it include a call placed over the telephone lines but it also includes the initiation of any contact over any of the other communications media including wireless communication channels, computer networks, fax channels, etc.).

It is noted that Miner does not explicitly use the term “voice instructions” or “control commands”. However, he teaches that it is well known to utilize a speech recognizer in



combination with a variety communications equipment. Ladd teaches that it was well known to use voice inputs or commands to control a wide variety of communication network functions (see col. 2, lines 18-50). It would have been obvious for a person having ordinary skill in the pertinent art, at the time the invention was made, that the speech recognizer of Miner can be used to convert input speech into control signals because Ladd explicitly teaches that this is the manner in which a speech recognition procedure needs to be implemented to provide the desired commands to a variety of systems to allow desired transactions over known communication networks (Ladd, col. 2, lines 40-65).

Claims 2, 13, 24: “Specific information sufficient to identify the communications unit” is taught by the example given in columns 6-7 by Miner to use specific commands (col. 6, lines 61-62) to place a phone call to a specific person.

Claim 3, 14: The use of “control commands that correspond to keypad activations” are anticipated by Miner’s teaching for the use of spoken or DTMF commands (col. 5, line 35).

Claim 6, 17: The ability to send a “confirmation message” is explicitly taught by Miner in col. 7, lines 51 – col. 8, lines 63 where a variety of feedback messages are described which allow the user to be properly informed.

Claim 7, 18, 26: “receiving the instruction message occurs at the remote agent...” is obvious because Miner explicitly teaches that in his described embodiment the VM, Assistants, Agents and Database all reside on one host computer. There is nothing in the architecture, however, that necessitates this. Other implementations could separate these components and have them run on separate computers... (col. 11). Thus, it is obvious that the necessary



messages could be transmitted using known protocols that allow messaging between computers, telephones or other network based elements or procedures.

9. Claims 8-11, 19-22 are rejected under 35 U.S.C. § 103 as being unpatentable over Miner (5,652,789) in view of Ladd (6,269,336) as applied to claim 7 above, in further view of Lucent (Lucent Unveils Bell Labs Predictive Algorithms for Call Centers, 4 Feb 1998).

Claim 8, 19, 27: Miner teaches that it is known to provide an Agent or Assistant for a particular process (col. 11, lines 5-20).

It is noted that Miner does not teach selection based upon “availability” and “ranking” but he does teach the speech recognition function using a vocabulary (col. 11, lines 32-35) to enable a speech interface to make the desired selection of the proper process and Agent/Assistant combination. However, the Lucent reference indicates that it was well known to improve agent selection where he analyzes the skills of the agents and predicts how soon they will likely become available (paragraph 3). Therefore, it is obvious to improve traditional selection processes by ranking the needed skills of the agents against each other in combination with availability because Lucent teaches that this more fairly balances the workload of the agents while matching them to the best prospect for the business (paragraph 3).

Claim 9, 20, 28: Using a plurality (“more than one”) of assistant agents is shown in figure 3 of Miner with his Electronic Assistants 60 and Utility Agents 62 of figure 3. Making judgments based on “availability”. “timeliness” and “economic considerations” is taught by Lucent with his teaching to determine when the agent with the best skill set for the customer will become available, tiers of service, call volume, sales goals – to determine the best and fairest use

of the agent and the best call to take that will bring the greatest value to the business at that time (paragraph 9).

Claim 10, 21, 30: Using a plurality (“more than one”) of assistant agents is shown in figure 3 of Miner with his Electronic Assistants 60 and Utility Agents 62 of figure 3. Handling of multiple messages, message types and possible errors is taught as well known by Miner in column 19 which includes the use of various assistant agents (to include Cron agents).

Claim 11, 22, 31: It is noted that Lucent does not use the terminology “trusted” and “unknown” to described agents. However, Lucent clearly indicates (see paragraph 10) is: To get the caller to the best agent... considers a range of variables to include the skill set of the next available agents in all locations. Since it is unlikely that the user will know about all agents, it would be obvious to check agents known and unknown to the user because the system must effectively know all agents in order to compare them. Thus, the applicant’s use of the subjective terms “known” and “unknown” must be interpreted broadly to read upon the prior art because if there existed agents that were truly “unknown” to the system (or method), then there would be no way to access or check them against each other for selection of one over others.

10. Claims 4, 5, 15, 16, 25 are rejected under 35 U.S.C. § 103 as being unpatentable over Miner (5,652,789) in view of Ladd (6,269,336) as applied to claim 1, in further view of Newton (Newton’s Telecom Dictionary).

Claim 4, 15, 25: It is noted that Miner and Ladd do not explicitly teach a “mirrored database”. However, one of ordinary skill in the art would be aware of the definitions of mirror, mirroring and disk mirroring (see Newton, pages 375, 376 and 742). Therefore, one of ordinary

skill in the art would know that it is obvious to mirror or make copies of data in order to improve fault tolerance or to reduce transmission over the Internet because these are the reasons explicitly provided by definition for implementing known methods of mirroring data.

Claim 5, 16: See claims 1-3 above which teach that it is well known to look up a telephone number using speech recognition that allows a user to speak a person's name as a command to place a call. The ability to send "text" is taught by Ladd in col. 4, lines 53-55.

### **Prior Art**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Thompson (5,335,276), Florin (5,583,560), Eting (5,651,056), Bareis (5,659,597), Garberg (5,822,727) and Hedlin (6,185,535) are cited to show that it is well known to utilize speech recognition to control a wide variety of communications related devices.

12. Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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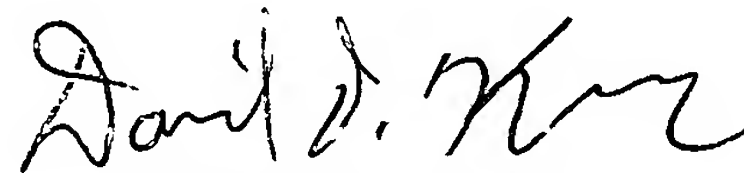
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Knepper whose telephone number is (571) 272-7607.

The examiner can normally be reached on Monday-Thursday from 07:30 a.m.-6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (571) 272-7602.

For the Group 2600 receptionist or customer service call (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028 between the hours of 6 a.m. and midnight Monday through Friday EST, or by email at [ebc@uspto.gov](mailto:ebc@uspto.gov). For general information about the PAIR system, see <http://pair-direct.uspto.gov>.



David D. Knepper  
Primary Examiner  
**Art Unit 2654**  
April 18, 2005